



Comptroller General
of the United States
Washington, D.C. 20548

Melluliffe
1-46462

Decision

Matter of: Environmental Systematics of Minnesota, Inc.

File: B-247518

Date: April 23, 1992

Raj Saraf for the protester,
Harry Gerdy, Esq., and Julia C. Allen, Esq., General
Services Administration, for the agency.
Susan K. McAuliffe, Esq., Andrew T. Pogany, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Government mishandling was not the paramount cause for late receipt of a bid which was sent by U.S. Postal Service Express Mail 1 working day before bid opening and delivered to the government installation's central mail facility approximately 2-1/2 hours prior to the scheduled bid opening where the outer, Express Mail envelope was not marked with any information identifying it as containing a bid and, as a result, the bid was delivered to the bid opening room after bid opening by the agency's regular internal mail delivery, rather than by expedited mail delivery; accordingly, the bid was properly rejected as late.

DECISION

Environmental Systematics of Minnesota, Inc. protests the rejection of its bid as late under invitation for bids (IFB) No. GS-05P-91-GBC-0152, issued by the General Services Administration (GSA) for the replacement of elevator controls at the W.E. Burger Federal Building, U.S. Courthouse, St. Paul, Minnesota. The protester contends that the late receipt of its bid was the result of government mishandling.

We dismiss the protest.

The IFB, issued on September 25, 1991, provided a mailing address for bids which were due by 2 p.m., December 18, 1991. The IFB incorporated the standard "Submission of Bids" clause, which provided that envelopes or packages containing bids must show, among other things, the solicitation number and the time specified for receipt of bids. See Federal Acquisition Regulation (FAR) § 52.214-5.

Environmental mailed its bid by U.S. Postal Service Express Mail on December 17. The protester addressed the outside Express Mail envelope to the mailing address provided in the IFB. The outer envelope had no markings to identify it as containing a bid and the outer envelope did not reference the solicitation number or the time and date set for bid opening. The envelope was delivered by the Postal Service to the installation's central mail facility, the Cooperative Administrative Support Program (CASP), at 11:40 a.m. on December 18.¹ The CASP routinely delivers the mail to the various GSA offices twice daily (at 10:30 a.m. and 2:30 p.m.). The CASP, pursuant to its agreement with GSA, also provides priority handling of bids and proposals when the package indicates that a bid or proposal is enclosed. CASP delivered the bid package to the bid opening location during its next (2:30 p.m.) scheduled mailrun. Environmental's bid was received at the bid opening location at 2:41 p.m., 41 minutes after bid opening. Consequently, the bid was rejected as late.

Environmental contends that the cause for late receipt of its bid at the bid opening room was mishandling by the government (namely, the CASP mailing facility servicing GSA) and that its bid should therefore be considered for award. Environmental states that the outer Express Mail envelope, as do all such envelopes, contained the following printed statements: "EXTREMELY URGENT," "Please Rush To Addressee," and "by 12 noon." The protester also argues that the CASP failed to follow its operating procedures which provide that "[s]pecial handling mail such as certified, registered, [U.S. Postal Service] Express Mail and UPS shipments will be delivered as soon as it is processed in accordance with mail room procedures." Environmental contends that if the CASP had delivered its package to the bid opening room immediately upon its receipt at 11:40 a.m., Environmental's bid would have been delivered by the 2 p.m. bid opening deadline.

A bid received in the office designated for the receipt of bids after the time set for bid opening is a late bid. FAR § 14.304-1. It is the responsibility of the bidder to deliver its bid to the proper place at the proper time, and late delivery generally requires that a bid be rejected. See Alpha Technical Servs., Inc., B-243322; B-243715, July 15, 1991, 91-2 CPD ¶ 56. Late mailed bids received before award may be considered where it can be determined

¹The agency explains that the CASP, a part of the Internal Revenue Service, is responsible for managing and administering the mail processing service for all incoming and outgoing mail for participating agencies, including GSA's office.

that the late receipt was due solely to mishandling by the government after receipt at the government installation, FAR § 14.304-1(a)(2); see West End Welding and Fabricating, B-225427, Dec. 31, 1986, 86-2 CPD ¶ 724. However, bidders must allow a reasonable time for bids to be delivered from the point of receipt to the location designated for receipt of bids; when they do not do so, late arrival at the designated location cannot be attributed to government mishandling. Bay Shipbuilding Corp., B-240301, Oct. 30, 1990, 91-1 CPD ¶ 161.

Here, we find no government mishandling. The record shows that Environmental did not, as instructed in the IFB, indicate on the outer Express Mail envelope that the package contained a bid or that the package referenced the solicitation number or the time set for bid opening. In the absence of such information, the CASP mailroom personnel had no reason to expedite delivery of Environmental's bid to meet the 2 p.m. bid opening deadline. In accordance with the CASP's standard operating procedure, as agreed to by GSA, that Express Mail packages which indicate bid contents will be delivered in an expedited fashion, its delivery of the package (which did not have any such markings) in the next scheduled mailrun was reasonable. In this regard, where a bid or proposal is placed in an Express Mail envelope or pouch provided by the Postal Service for overnight delivery, the information required by the solicitation to be shown on the envelope as to the solicitation number and date and time by which bids must be received may no longer be apparent, as is the case here, from the outer envelope. We do not view the envelope's pre-printed instructions for the Postal Service to rush delivery as sufficient to put the CASP on notice that the Express Mail envelope contained a bid. As here, a bidder's failure to assure that this required information is on the envelope can be a paramount cause for the delay in delivery. See generally Southeastern Enters. Inc., B-237867, Mar. 21, 1990, 90-1 CPD ¶ 314.²

The protest is dismissed.



Michael R. Golden
Assistant General Counsel

²Although the protester timely telefaxed a bid modification deducting a sum certain from an unspecified base bid, the fact that its base bid arrived late renders the modification irrelevant.